COUNCIL REPORT

REPORT DATE: 6/26/2024
MEETING DATE: 7/8/2024

File No. 6650-20-Mobile Vending

TO: Mayor and Councillors

FROM: Seamus McConville, Planner I

SUBJECT: Mobile Vending Regulations – Public Engagement Summary and Analysis

RECOMMENDATION

THAT Council receive the Mobile Vending Regulations – Public Engagement Summary and Analysis staff report, and Engagement Report – Mobile Vending Regulations Review for information.

PURPOSE

This report presents the public engagement summary report and analysis for the subject project. The first part of the report summarizes public and stakeholder input received during engagement activities between February and March of this year. The second part discusses the different regulatory options and makes recommendations for updates to mobile vending regulations based on:

1. level of public support;
2. the Village's ability to enforce the regulations;
3. feedback from other Village departments and the Advisory Planning Commission; and,
4. best practices from other municipalities.

PREVIOUS COUNCIL DIRECTION

Date	Resolution
January 8, 2024	THAT Council endorse the Engagement Plan for the Mobile Vending Regulations Update.

BACKGROUND

Mobile vending is a type of commercial activity occurring without a regular storefront presence; food trucks are a common example. Mobile vending operations are usually embraced by the general community, adding street activation as well as vitality to a downtown core. When developing mobile vending regulations, municipalities must consider the impact on surrounding properties, community safety, and fairness to established business owners.

The purpose of this project is to review the Village's mobile vending regulations, as well as clarify and improve existing regulations. On January 8, 2024, Council endorsed an engagement plan.

The Village promoted an on-line survey to gather feedback on issues concerning mobile vending in Cumberland. Respondents provided input on current Village regulations and how they met specified goals, including fairness between businesses and environment impact. Respondents identified areas to consider new regulations to incorporate into business licence review.

The survey was open from February 9 to March 15 2024, hosted on a webpage dedicated to the project. While many respondents were general members of the public, eight submissions were received from local businesses, and two from mobile vending operators. Business respondents skewed towards those operating in the downtown area. A summary analysis and recommendations are found below, and a detailed engagement report is attached as Attachment 1.

On June 20, 2024, the project was presented to the Advisory Planning Commission (APC,) who provided comment and made recommendations on potential amendments.

ANALYSIS

Overall, there is strong support for requiring mobile vending operators to be considerate of their spaces occupied in the Village, while not imposing barriers to operating. The public also sees the benefit in upholding fairness between storefront businesses and mobile vending operators and are satisfied that the existing buffering scheme is sufficient for this purpose. While outside of the scope of the project, interest exists in utilizing Village lands for mobile vending.

When asked about the current regulations, respondents were concerned with environmental impacts. These concerns focused heavily on waste discharge and garbage. Additionally, siting of mobile vendors, and impacts to neighboring lots or pedestrian passage were identified as concerns.

Respondents noted the existing 30m buffer area from existing restaurants was sufficient to help balance competitive impacts; however some respondents wanted it reduced, or did not see the buffer as a relevant way to manage competition. Some comments suggested that mobile vending licenses be issued in a manner that avoids having food offerings duplicate that of nearby restaurants.

Respondents identified that mobile vendors should pay for municipal utility usage (i.e water / sewer connections) like businesses would, as well as pay higher business licensing fees to compensate for the lack of tax revenue from such businesses. Mobile vendors without onboard water connect to a property's metered water connection, meaning any water use is billed to the host property. Mobile vendors are not permitted to connect to the municipal sewer system. In written submissions, respondents identified the potential to allow for mobile vending on Village lands. Changes to allow for mobile vending on Village land are not considered under the scope of this project, however, any regulations arising out of this review will apply to vending on Village lands in the future.

The APC recommended review of the role of external combustion engine generators in mobile vending operations, recommending that mobile vendors be fossil fuel free. Mobile vendors can utilize electrical connections where available, however not every location will have such a connection. Should mobile vending on Village lands be pursued, electrical hookups could be provided in designated spaces to help vendors avoid the use of generators. A review of mobile

vending operators reveals that batteries that can power mobile vendors are not commonplace. As such, without the supporting technology or infrastructure, a ban on fossil fuels in relation to mobile vending operations today would result in mobile vendors becoming unable to obtain a licence. However, as battery technology evolves, this could be revisited.

Furthermore, the APC commented on the noise produced by mobile vendors and generators. While not a specific question in the survey, three comments were received about noise produced by generators. Of the municipalities researched, only Comox has a specific regulation for noise from generators; however, this regulation only provides a mechanism for the Town to act in the event a generator becomes a nuisance. As such, it can be assumed that other municipalities defer to noise and nuisance bylaws to manage noise complaints.

Regulatory Options

This section identifies potential regulatory options to include in the bylaw amendments. The Advisory Planning Commission (APC) provided feedback on what the amended regulations should consider.

1. **Waste Discharge Plan**

Recommendation: Requirement for a waste discharge plan that outlines how all waste streams are separated and disposed of, including grey water grease, oils, fats and garbage, ensuring all wastes are disposed appropriately as accepted by the Comox Valley Waste Management Center.

2. **Waste Containers**

Recommendation: Require mobile vendors to provide appropriate waste containers for patron use in alignment with the waste discharge plan. These containers are to be removed by operator at the close of the business day.

3. **Siting and Access**

Recommendation: Prohibit mobile vending queue areas and implements (e.g. chairs, garbage cans) from encroaching onto neighboring lands, and not issue a business license if the host property cannot achieve minimum residential parking requirements as applicable; implement a 1m setback from all property lines for mobile vending.

While staff expect that the above standards will help manage the flow of visitors to mobile vendors, additional regulations, including a maximum cap on how many mobile vendors may operate on one property at one time, could be considered.

4. Buffering from Existing Business

Recommendation: Retain the 30m buffer regulations.

5. Fees for Mobile Vendors

Recommendation: Consider creating a business license fee class for mobile vending, accounting for increased staff time in processing license applications, and potential use of Village utilities.

6. Generator Standards

Recommendation: Consider prohibiting use of external combustion engines as generators.

Staff will review this recommendation to determine if implementation is possible. Owing to the factors outlined above, prohibiting external combustion engines while allowing for mobile vending operations may not be practical.

PUBLIC NOTIFICATION AND CONSULTATION

The public engagement strategy, as endorsed by Council, is now complete.

In preparation of bylaw amendments, Staff intend on testing draft regulations on mobile vending applications throughout this summer. This includes the creation of a checklist to be provided to mobile vending operators to collect this information prior to their application. In lieu of a specific bylaw regulation, Staff will collect this information under Section 9 of the Business License Bylaw, No.896, 2009, which allows staff to request additional information in support of a licence application.

FINANCIAL IMPLICATIONS

Potential increase to mobile vending licencing fees may result in further revenue to the Village; however, how much this may be is unknown.

OPERATIONAL IMPLICATIONS

By updating the Village's mobile vending requirements, less time will be spent requesting information from applicants. Implementation of a checklist to provide to applicants will set expectations for a successful application earlier.

CLIMATE CHANGE IMPLICATIONS

The process has identified a goal of using more sustainable resources for mobile vending, including electrical connections or battery power. Medium term interventions could include electrical connections on Village lands, resulting in reduced greenhouse gas emissions.

ALTERNATIVES

1. THAT Council provide alternate direction on any of the recommendations identified in this report.

STRATEGIC OBJECTIVE

☒Diverse and Healthy Community
☒Sustainable Service Delivery and Asset Management
☒Community Planning

ATTACHMENTS

1. Engagement Report – Mobile Vending Regulations Review

CONCURRENCE

Courtney Simpson, Director of Development and Bylaw ***CS***

Andrea Samsom, Manager of Finance and Human Resources ***AS***

Ryan Parton, Manager of Recreation and Culture ***RP***

Respectfully submitted,

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Seamus McConville
Planner I

M. Mason

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Michelle Mason
Chief Administrative Officer

Engagement Report – Mobile Vending Regulations Review

Background

Introduction

In February and March 2024, the Village engaged the public in a review of mobile vending regulations. The goal of the engagement was to explore different regulatory options and to find the right balance between mobile vending operations, established businesses, and community impacts.

Public Engagement Process

The survey was open from February 9 to March 15 2024. and gathered 44 responses. Survey respondents represented the public, business owners and mobile vendors. Business community and mobile vendors received an invite for a special survey tailored to their perspectives.

Engagement questions were grounded in a comprehensive review of mobile vending regulations in the Village and best practices found in other jurisdictions.

Following is a summary of the input received organized by survey question, as well as a detailed review of written submissions received during the engagement period. The analysis at the end of the report reviews that input in the context of the regulatory options and provides a short conclusion.

Survey Responses

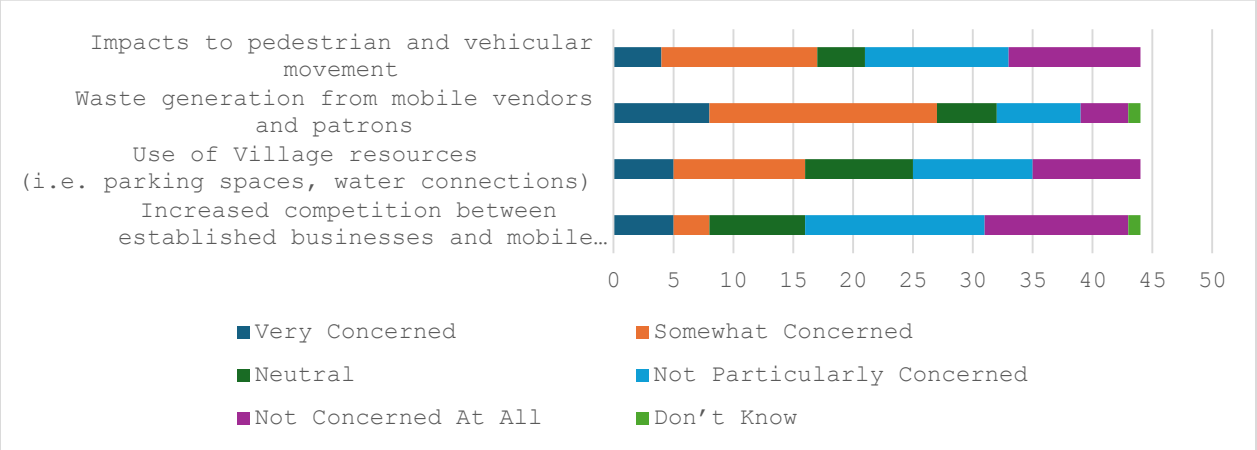
Respondent Profile

- Of the 44 respondents to the survey, 34 were members of the public, 8 were storefront business owners or employees, and 2 were mobile vending operators or employees.
- Of the storefront business respondents, 7 of the 8 respondents identified as being located along the Dunsmuir Avenue corridor, while the other respondent identified as “other.”
- Business and mobile vending respondents skewed towards food service, with 5 respondents. 3 businesses identified as personal / professional service, while 2 respondents were from retail businesses.

Poll Questions

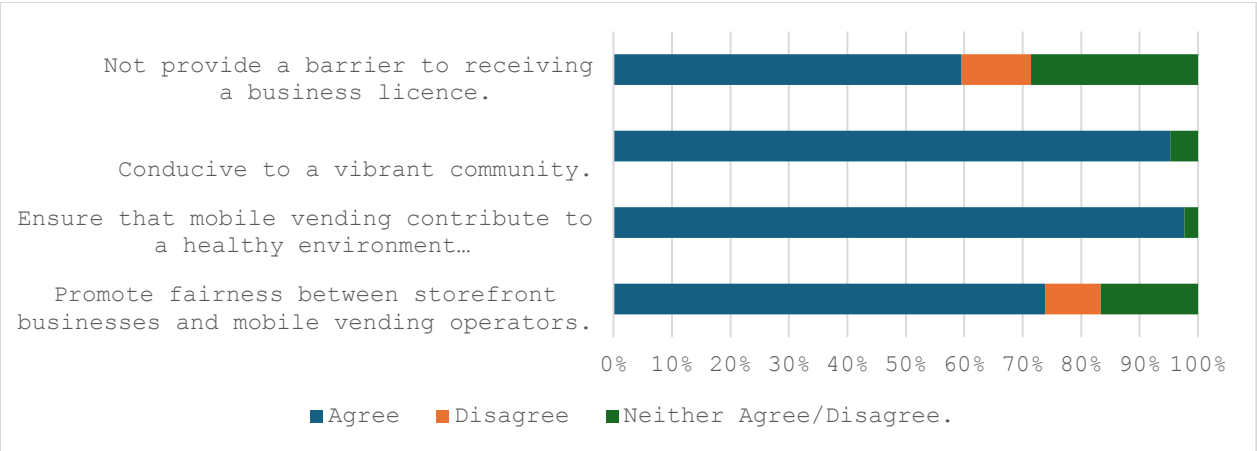
As the number of mobile vending operators in Cumberland increases, how concerned are you about the following potential impacts?

- 61% of respondents were "very concerned" or "somewhat concerned" about waste generation from mobile vending operations, while 38% expressed similar concerns about impacts to vehicle and pedestrian movements, with 52% showing little to no concern.
- 36% of respondents were "very concerned" or "somewhat concerned" about the use of village resources, while 43% showed little to no concern, and 20% were neutral.
- 61% of respondents were not concerned about competition, while 17% expressed some level of concern.
- Overall, the most pressing issue for respondents is related to waste generation by mobile vending operations.



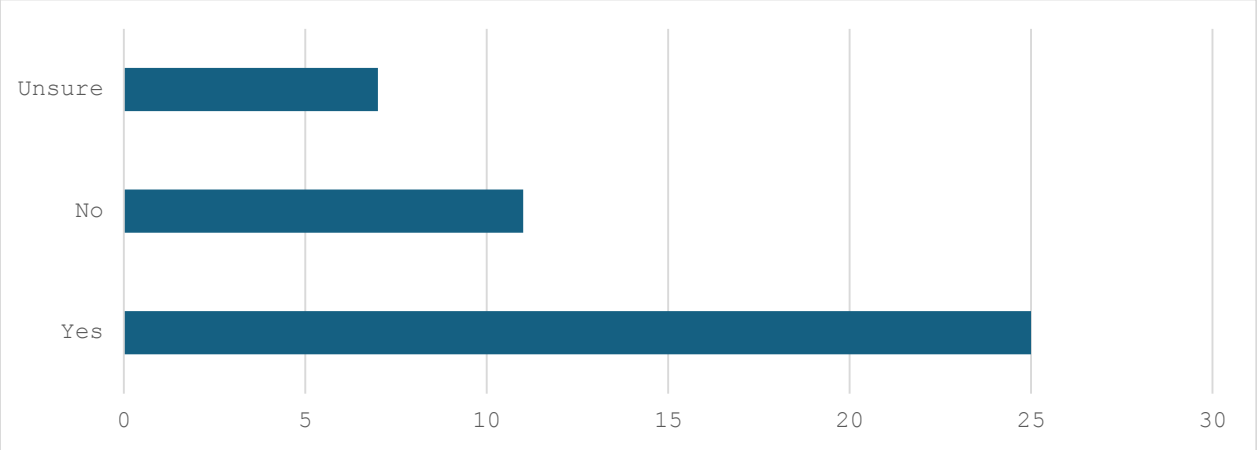
Do you feel the current regulations achieve the following: Promote fairness between physical businesses and mobile vendors, ensure that mobile vendors contribute to a healthy environment without negative impact to their surroundings and Conducive to a vibrant community?

- This question was designed to obtain public perception of the existing regulations, as found in the Zoning Bylaw.
- Respondents felt that the existing regulations met the above values. The area which saw the most dissatisfaction was related to impacts to the environment and surrounding areas, of which 24% of respondents responded “disagree” or “strongly disagree.”



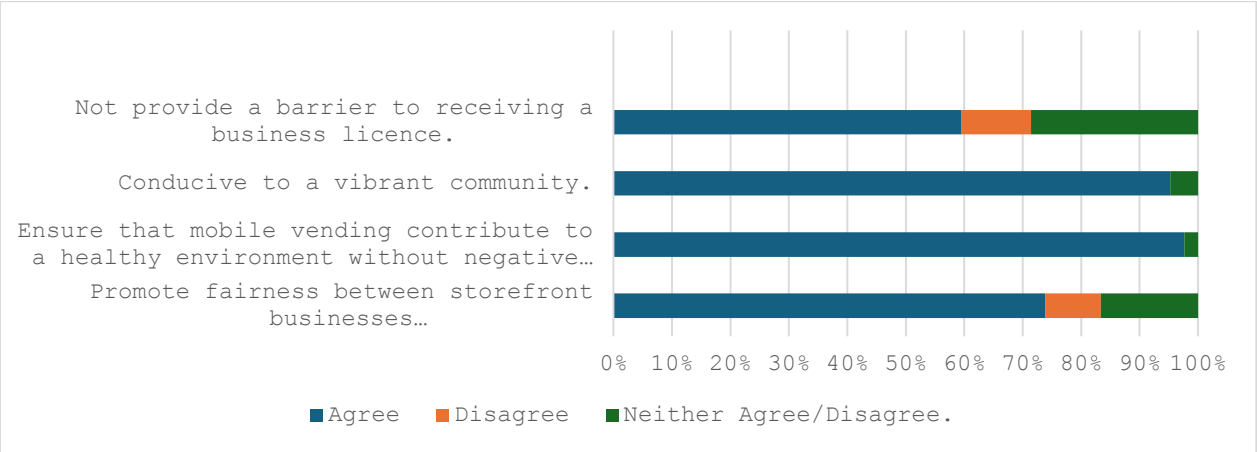
The Village requires that mobile vending not operate within 30m of a food primary operation unless prior permission is granted from the affected food primary location, to promote fairness between storefronts and mobile vendors. Do you feel this is an effective tool?

- 58% of respondents answered yes, with 25% answering no and 16% were unsure.
- Overall, minimal concern was raised with this regulation, although some written responses suggested changes to buffering requirements, including buffering based on similar attributes.



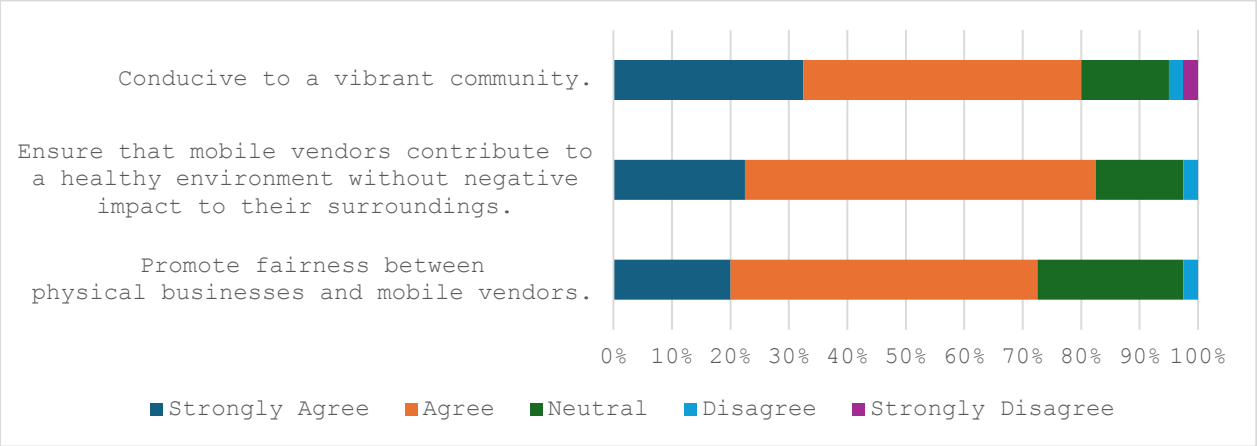
When drafting new regulations, what should the Village prioritize? Promote fairness between storefront businesses and mobile vending operators, ensure that mobile vending contribute to a healthy environment without negative impact to their surroundings, Conducive to a vibrant community and not provide a barrier to receiving a business licence.

- Overall, respondents were receptive to these themes, with most questions receiving over 60% of the responses being in agreeance. However, affinity towards "not providing a barrier to receiving a business licence" was somewhat lower, suggesting that permissiveness of mobile vending operations should not compromise potential regulations.



Do you feel that these opportunities achieve the following?

- This question was designed to gauge the conceptual ideas in the previous question and how they may align with some of the goals identified earlier in the survey.
- On average, 69% of respondents answered in agreeance that the concepts would meet the goals of the project.



What We Heard - Written Submissions

Background

Within the mobile vending survey, respondents had the opportunity to answer long-form questions. These responses provided specific details in responses to prompts, specifically when respondents were dissatisfied with current regulations and experiences.

Overview

Staff reviewed all written submissions and coded them based on the themes that consistently came up during the review process.

The most comments on potential bylaw standards were related to environmental impacts, as well as siting of mobile vendors. Otherwise, respondents provided comments on their sentiment towards mobile vending in the community, or how mobile vendors impact competition with established business.

Each overview category was further reviewed for specific details or areas of concern and further ranked within each subcategory.

Environmental	53
Sentiment Comments	31
Competition with existing businesses	33
Siting	28
Utilities	12
Buffering	8
Village Lands / Parks	8
Finance	5
Public Safety	4

Environmental

Waste Discharge	26
Garbage	17
Air Pollution	5
Sound	3
Toilet Facilities	1
No Waste Discharge Plan	1

For respondents, waste discharge (i.e. fats, garbage from food production, wastewater) were the highest priority, alongside patron garbage disposal. Some comments were held on air and sound pollution, as well as toilet facilities, but were not the highest priority for respondents.

Siting

Lot Access and Placement	13
Parking Impacts	5
Impacts to Adjacent Lands	4
Provide Specific Areas	4
Use of Public Parking Spots	1
Permit Accessory Structures	1

Comments primarily focussed on access and siting on lots, specifically ensuring that mobile vendors don't impede pedestrian accesses. This theme was observed in comments of impacts to adjacent lands.

Respondents also wanted to ensure that the placement of mobile vending will not impact individual properties' abilities to provision required parking.

Sentiments

Encourage More Mobile Vendors	15
Update Regulations	7
Limit Mobile Vendors	3
Enough Choice	2
Concern On Vendors During Events	2
Reduce Regulations	1
Prohibit Mobile Vending	1

Respondents took the opportunity to provide their sentiments towards mobile vending in written responses. Overall, respondents wanted to see mobile vending encouraged in the community, and that regulations should be updated to capture waste and siting.

Competition with Existing Businesses

Encourage Diverse Food Offerings	13
Encourage Fairness Between Storefront Businesses and Mobile Vendors.	6
No Concern	5
Concerned With Increased Competition	3

Protecting fairness between storefront businesses and mobile vendors was a common response, with some concerns raised with increased competition. Respondents saw encouraging mobile vendors with diverse food offerings as a way to balance competition with existing restaurants.

Buffering

Decrease Buffer Radius	3
No Concerns with Buffer	3
Increase Buffer	2

Only a few written comments were received regarding the buffer radius. Some respondents wanted the buffer radius either increased or decreased, or were unconcerned with this regulation.

Utilities

Implement fees for use of Village Utilities	5

Respondents' expressed concern that mobile vendors were using municipal servicing without paying for utilities, including water and garbage. To this end, some suggested that mobile vendors be completely self sufficient (i.e. water and discharge onboard.)

Concerned with use of Village Utilities	4
Onboard Servicing	3

Village Lands and Parks

Permit On Village Property	5
Vending Must Not Impact Use Of Lands And Parks	2
No Availability	1

While not considered as part of this project, frequent reference to allow mobile vending on municipal lands and parks was noted. One respondent to the mobile vending survey noted that the lack of available sites on Village lands was the reason they chose not to operate in the community.

Business Licence Fees

Increase Business Licence Fees	4
Parking Fees for Mobile Vending Use	1

Respondents wanted to see an increase business licencing fees in a show of fairness towards established businesses who often pay property taxes. One respondent suggested implementing a fee class for those mobile vendors that use Village parking spaces

Public Safety

Public Safety - Bylaw Enforcement	2
Public Safety - Technical Safety Inspection	2

Only four responses as they related to public safety were provided: specifically in reference to Bylaw Enforcement and inspections for technical safety. Please note a Fire Inspection is conducted on all mobile vending licence applications.

Analysis – Regulatory Options

Discussion

, Respondents were supportive of mobile vending , and wanted to see it encouraged, so long as impacts from operations are mitigated. A summary, discussion and recommended response to identified issues are found below.

Environmental

Environmental impacts were identified as the greatest concern when considering mobile vending, with 61% of respondents identifying as being concerned with environmental impacts and 53 written comments referencing as such. Comments focused on how mobile vendors deal

with waste generated by vendors, and that updates to Village bylaws must consider these issues.

Discussion

Village bylaws are silent on waste discharge and garbage. While staff have requested information on waste discharge as part of a business licence application, this is not a bylaw requirement. Staff request information on these topics under Section 9 of the *Business Licence Bylaw, No.896, 2009*, which allows staff to request supporting information from applications in business license matters Adding bylaw requirements provides Village staff tools to act on mobile vendors which may be generating waste and garbage as well as clearer expectations for applications to abide by.

Recommendation

Require that mobile vending operators provide a satisfactory waste discharge plan, that outlines how garbage, recycling, fats, oils and other waste from the operation and preparation of food is completed.

Require mobile vendors provide a minimum of two waste containers for patron use, separating garbage, recycling, and food scraps, with these containers to be removed by the operator when they close for the day.

Siting and Access

Siting and preservation of access to adjacent lands was identified as a concern in the written submissions 28 times. This included pedestrian and vehicle access to private properties, and queue lines on sidewalks. Two comments identified mobile vending queues spilling into a local park. Other comments included identifying specific areas for mobile vending operators to setup.

Discussion

Evaluating the siting of mobile vending at time of licencing allows staff to consider these movements prior to a business licence being issued. The Town of Sidney has a requirement which mandates mobile vending operators must be sited at least 1m from a property line, which can help control where queue lines will go and contain mobile vending operations onto one property.

Recommendation

Prohibit mobile vending queue areas and implements (i.e. chairs, garbage cans) from encroaching onto neighbouring lands, and not issue a business licence if the host property cannot achieve minimum parking requirements. *Implement a 1m setback from all property lines for mobile vending.*

While staff expect that the above standards will help manage the flow of visitors to mobile vendors, additional regulations, including a maximum cap on how many mobile vendors may operate on one property at one time could be considered.

Buffering

Issues of competition between storefront businesses and mobile vending operators were raised. specifically with respects to mobile vending operations who may serve the same food as a nearby restaurant, with some respondents suggesting that mobile vendors should not duplicate

food offerings of nearby restaurants. Feedback received suggested that the existing 30m buffer is an effective tool to balance competition between businesses, while others suggested lowering the buffer distance.

Discussion

The buffering regulations in the Zoning Bylaw prevent vendors from duplicating food offerings of a storefront, as a mobile vendor must be at least 30m away from a food establishment unless written permission is provided. As it is unlikely a storefront business would grant permission to a competitor serving a similar food close to their property, a new regulation in this regard is unnecessary. Furthermore, it would be challenging for Village staff to confirm there is no duplication at time of business licence application.

3 written responses suggested increasing the buffer radius beyond 30m, and 2 suggested reducing the buffer radius. Considering 58% of all respondents felt the 30m buffer is sufficient, and that respondents want to encourage mobile vending operators, retaining the 30m buffer as is helps balance these desires while helping uphold fairness to storefront businesses.

Recommendation

Retain the 30m buffer regulation.

Fees

Respondents commented that mobile vendors should pay higher business licence fees, in fairness to storefront businesses that pay property taxes. A similar theme was noted with utility fees, as 5 comments raised the possibility of charging for the use of Village water and sewer. Respondents also wanted to see higher fees for mobile vendors operating on Village lands, however this will be considered in future phases of the project when regulations for vending on Village lands are considered.

Discussion

Cumberland, like many municipalities, has a singular fee for all businesses that are not cannabis related. Depending on how many regulations are introduced into Village Bylaws, more staff time may be required to review applications, which has its own costs.

Multiple comments related to ensuring mobile vendors pay for water and sewer use. As mobile vendors would connect to a host properties service, use of municipal services and any associated fees would be captured through the agreement between the mobile vendor and host property. As such, there is no need for the Village to intervene to measure and bill for mobile vendor use directly.

Recommendation

Consider creating a business licence fee class for mobile vending, accounting for increased staff time in processing the licence application, and potential use of Village utilities.

Conclusion

Public input received indicated overall satisfaction with the presence of mobile vending in the community, contingent on some improvements to existing regulations. Overall, there is strong support for requiring mobile vending operators to be considerate of their spaces occupied in the

Village, while not imposing barriers to operating. The public also sees the benefit in upholding fairness between storefront businesses and mobile vending operators and are satisfied that the existing buffering scheme is sufficient for this purpose. While outside of the scope of the project, there is interest from the community to utilizing Village lands for mobile vending operators.

By adding regulations that account for waste discharge and garbage collection, the Village will have enforcement tools should a vendor create an issue. Regulations surrounding siting and access will help manage the flow of patrons to both mobile vending and host lots which will in turn, lessen impacts on the surrounding community.

Implementation of the above recommendations will require amendments to the Village's business licence and zoning bylaws.